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CONGRESSIONAL CAUCUS ON ROBOTICS



122

Congress of the United States
House of Representatives

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(412) 664-4049

February 15, 2017

The Honorable Ajit Pai
Chairman
Federal Communications Commission
445 12th St SW
Washington, DC 20554

Dear Chairman Pai:

We write to urge you to reconsider your recent action to block the implementation of the Federal Communications Commission's Lifeline Modernization Order that makes internet access more affordable to struggling Americans.

As you know, broadband has become an essential part of modern life, providing a way for the unemployed to find jobs, for the sick to manage their healthcare, for families to connect with loved ones, for all citizens to engage with the government, and for student to access education. But for many struggling families, the only way to get access to these critical services is through the Lifeline program. The Lifeline Broadband Provider (LBP) process was created last year to lessen barriers to entry for new Lifeline broadband providers so that low-income families can benefit from a more competitive Lifeline market brought about by the new participants. At least one provider impacted by your decision already has customers benefiting from this new process, giving them the tool to connect with the outside world. But the FCC's action is putting this tool out of reach—and for existing customers, it is pulling it out of their hands.

The FCC's order has prevented new entrants to the Lifeline market from immediately offering discounted service to the Americans who need it most. Moreover, this total reversal of existing FCC rules was done by the Wireline Bureau under delegated authority, without a vote by the full Commission or proper notice to the parties affected. Since the Order itself raises many novel questions of law and policy concerning the Commission's efforts to combat waste, fraud, and abuse in the Lifeline program, issuing the order through the Bureau not only undermines the ability of affected carriers to seek timely review of the decision, it is also an abuse of the FCC's process.

The reasons given for taking these actions do not seem to justify the extreme results. While the order states that the revocations are necessary to prevent further waste, fraud, and abuse, the order does not explain how its actions will accomplish those goals. Furthermore, since the Order raised many novel policy questions regarding the Commission's current efforts to safeguard the integrity of the Lifeline program, we find it troubling that the Chairman would insist on pursuing

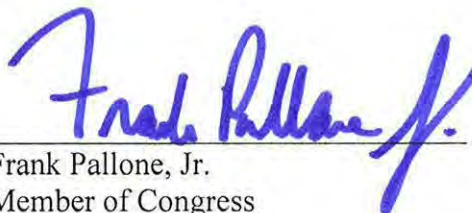
the same course he has so often criticized his predecessors for: an improper exercise of the FCC's delegated authority and a refusal to permit the full Commission from voting on an item that poses new questions of law and policy.

We always welcome any efforts to make such an important program more efficient and accountable. But these efforts do not need to come at the expense of the consumers who could benefit from it. We therefore urge you to immediately reinstate the LBP designations already made and to preserve the ability for new carriers to efficiently and responsibly enter the Lifeline market nationally. Moving forward, we welcome the opportunity to continue working with to strengthen, not dismantle, this important social safety net program.

Sincerely,



Michael F. Doyle
Member of Congress



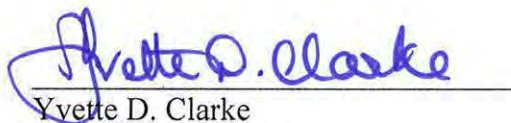
Frank Pallone, Jr.
Member of Congress



Anna G. Eshoo
Member of Congress



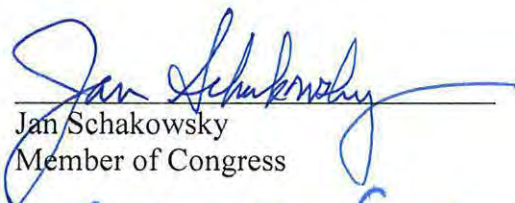
Doris Matsui
Member of Congress



Yvette D. Clarke
Member of Congress



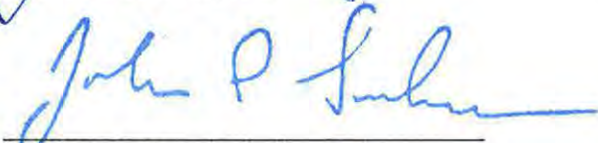
Diana DeGette
Member of Congress



Jan Schakowsky
Member of Congress



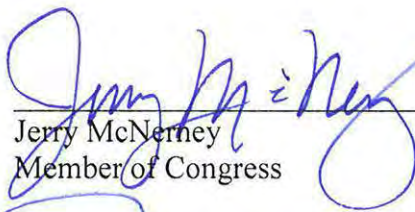
Paul D. Tonko
Member of Congress



John P. Sarbanes
Member of Congress



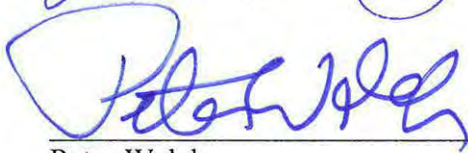
Ben Ray Luján
Member of Congress



Jerry McNerney
Member of Congress



Gene Green
Member of Congress



Peter Welch
Member of Congress



Tony Cárdenas
Member of Congress



Debbie Dingell
Member of Congress



OFFICE OF
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

April 28, 2017

The Honorable Tony Cárdenas
U.S. House of Representatives
1510 Longworth House Office Building
Washington, D.C. 20515

Dear Congressman Cárdenas:

Thank you for your letter regarding the Wireline Competition Bureau's *Order on Reconsideration*, which affected nine companies' participation in the Lifeline program. I appreciate your views, which will be entered into the record of the proceeding.

One of my main goals as FCC Chairman is closing the digital divide. And I recognize unaffordability as a key barrier to digital opportunity. Last September, I explained when announcing my Digital Empowerment Agenda that "[a]lthough gigabit services and mobile broadband are becoming common features of wealthier, metropolitan areas, they aren't universal." There is a real digital divide in our country, and as we seek to address this problem, going forward, I want to make it clear that broadband will remain in the Lifeline program so long as I have the privilege of serving as Chairman. And we will continue to look for ways to make the program work even better.

Regarding the *Order*, I would make several important points.

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Second, eight of the nine affected carriers had no Lifeline customers.

Third, with respect to your concerns that this action was taken at the bureau-level, the full Commission delegated authority to the Wireline Competition Bureau to act on LBP designations in the *Lifeline Modernization Order*. Just as the prior Administration used this delegated authority to direct the Bureau to designate these providers, the current Bureau relied upon that authority in returning these LBP applications to the queue.

Fourth, the prior Commission disregarded the well-established process for approving applications like these. The National Tribal Telecommunications Association filed a petition for reconsideration pointing out that several of the providers never complied with their obligation under our rules to coordinate their applications with Tribes. These Tribal representatives thus requested that the designations be reversed. Moreover, two providers' designations were improperly granted prior to the public comment deadline for filing comments—that is, before the public even had a full and fair chance to weigh in on the designation. This curtailed the public's ability to participate in these proceedings and limited the Commission's ability to

consider all designation criteria with a fulsome record. Whatever one thinks of the merits of these applications, that action was plainly improper.

Fifth, as we implement the Lifeline program—as with any program we administer—we must follow the law. And the law here is clear: Congress gave state governments, not the FCC, the primary responsibility for approving which companies can participate in the Lifeline program under Section 214 of the Communications Act. This is how the program worked over two decades, over three Administrations, and over eight Chairmanships.

Twelve states, from Vermont to Wisconsin, challenged the legality of the FCC's order in the U.S. Court of Appeals for the District of Columbia Circuit. Because it would have been a waste of judicial and administrative resources to defend the FCC's unlawful action in court, the Office of General Counsel asked the D.C. Circuit to send this case back to the Commission for further consideration. The court did so this past week.

In the meantime, we must consider the Lifeline Broadband Provider applications that are pending at the FCC. In last year's order, the Commission delegated to the Wireline Competition Bureau the authority to address such applications. I do not believe that the Bureau should approve these applications. Here's why:

Right now, over 3.5 million Americans are receiving subsidized broadband service through the Lifeline program from one of 259 different Eligible Telecommunications Carriers (ETCs). And according to the latest available figures, the number of customers receiving subsidized broadband service has increased by over 16 percent during my Chairmanship. Hundreds of companies have been approved to participate in the Lifeline program through a lawful process. Indeed, over 99.6 percent of Americans currently participating in the broadband portion of the program receive service from one of those companies. New companies can enter the program using this process, and I encourage them to continue to do so. Given this context, it would be irresponsible for the Bureau to allow companies to sign up customers for subsidized broadband service through an unlawful federal authorization process that will soon be withdrawn. This would force many consumers to switch broadband providers in a relatively short period of time, which wouldn't be fair to them.

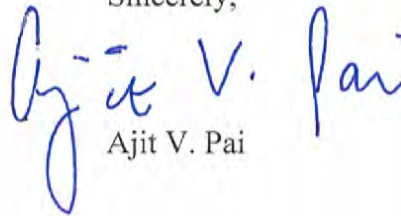
Congress established our universal service programs as a joint federal-state partnership. And through the years, many states have helped consumers and protected taxpayers by enforcing the rules of the road. As Senator Tom Udall (D-N.M.) recently observed in introducing bipartisan Lifeline legislation with Senator Deb Fischer (R-Neb.), we need to “return the role of state utility commissions in determining Lifeline eligibility. State utility commissions are key to policing against fraud and harmonizing federal and state initiatives that will help us close the digital divide.” By letting states take the lead on certification as envisioned by Congress, we will strengthen the Lifeline program and put the implementation of last year's order on a solid legal footing. This will benefit all Americans, including those participating in the program.

Finally, every dollar that is spent on subsidizing somebody who doesn't need the help by definition does not go to someone who does. That means that the Commission needs to make sure that there are strong safeguards against waste, fraud, and abuse before expanding the program to new providers. But our federal safeguards are insufficient: My investigation last year into these matters revealed that providers could indiscriminately override checks that are

supposed to prevent wasteful and fraudulent activities. (These checks include common-sense steps like verifying the identity of would-be Lifeline recipients.) From October 2014 until June 2016, wireless resellers had overridden such safeguards 4,291,647 times in total. The investigation also uncovered other loopholes, including one that let a company claim subsidies for approximately 22,000 phantom subscribers each month in the state of Michigan. And the National Verifier—a new database intended to verify eligibility to participate in the Lifeline program—does not currently exist and will not start operating until the end of 2017. Further, it is not scheduled to cover all states until 2019. We need to make sure that safeguards are strong and effective in order to direct subsidies to American consumers who most need the help.

I appreciate your interest in this matter. Please let me know if I can be of any further assistance.

Sincerely,



Ajit V. Pai



OFFICE OF
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

April 28, 2017

The Honorable Yvette D. Clarke
U.S. House of Representatives
2058 Rayburn House Office Building
Washington, D.C. 20515

Dear Congresswoman Clarke:

Thank you for your letter regarding the Wireline Competition Bureau's *Order on Reconsideration*, which affected nine companies' participation in the Lifeline program. I appreciate your views, which will be entered into the record of the proceeding.

One of my main goals as FCC Chairman is closing the digital divide. And I recognize unaffordability as a key barrier to digital opportunity. Last September, I explained when announcing my Digital Empowerment Agenda that "[a]lthough gigabit services and mobile broadband are becoming common features of wealthier, metropolitan areas, they aren't universal." There is a real digital divide in our country, and as we seek to address this problem, going forward, I want to make it clear that broadband will remain in the Lifeline program so long as I have the privilege of serving as Chairman. And we will continue to look for ways to make the program work even better.

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Third, with respect to your concerns that this action was taken at the bureau-level, the full Commission delegated authority to the Wireline Competition Bureau to act on LBP designations in the *Lifeline Modernization Order*. Just as the prior Administration used this delegated authority to direct the Bureau to designate these providers, the current Bureau relied upon that authority in returning these LBP applications to the queue.

Fourth, the prior Commission disregarded the well-established process for approving applications like these. The National Tribal Telecommunications Association filed a petition for reconsideration pointing out that several of the providers never complied with their obligation under our rules to coordinate their applications with Tribes. These Tribal representatives thus requested that the designations be reversed. Moreover, two providers' designations were improperly granted prior to the public comment deadline for filing comments—that is, before the public even had a full and fair chance to weigh in on the designation. This curtailed the public's ability to participate in these proceedings and limited the Commission's ability to

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Fifth, as we implement the Lifeline program—as with any program we administer—we must follow the law. And the law here is clear: Congress gave state governments, not the FCC, the primary responsibility for approving which companies can participate in the Lifeline program under Section 214 of the Communications Act. This is how the program worked over two decades, over three Administrations, and over eight Chairmanships.

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In the meantime, we must consider the Lifeline Broadband Provider applications that are pending at the FCC. In last year's order, the Commission delegated to the Wireline Competition Bureau the authority to address such applications. I do not believe that the Bureau should approve these applications. Here's why:

Right now, over 3.5 million Americans are receiving subsidized broadband service through the Lifeline program from one of 259 different Eligible Telecommunications Carriers (ETCs). And according to the latest available figures, the number of customers receiving subsidized broadband service has increased by over 16 percent during my Chairmanship. Hundreds of companies have been approved to participate in the Lifeline program through a lawful process. Indeed, over 99.6 percent of Americans currently participating in the broadband portion of the program receive service from one of those companies. New companies can enter the program using this process, and I encourage them to continue to do so. Given this context, it would be irresponsible for the Bureau to allow companies to sign up customers for subsidized broadband service through an unlawful federal authorization process that will soon be withdrawn. This would force many consumers to switch broadband providers in a relatively short period of time, which wouldn't be fair to them.

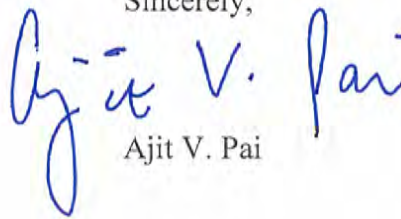
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Ajit V. Pai



OFFICE OF
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

April 28, 2017

The Honorable Diana DeGette
U.S. House of Representatives
2368 Rayburn House Office Building
Washington, D.C. 20515

Dear Congresswoman DeGette:

Thank you for your letter regarding the Wireline Competition Bureau's *Order on Reconsideration*, which affected nine companies' participation in the Lifeline program. I appreciate your views, which will be entered into the record of the proceeding.

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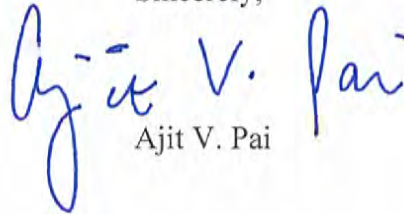
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Ajit V. Pai



OFFICE OF
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

April 28, 2017

The Honorable Debbie Dingell
U.S. House of Representatives
116 Cannon House Office Building
Washington, D.C. 20515

Dear Congresswoman Dingell:

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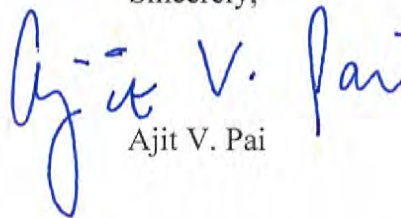
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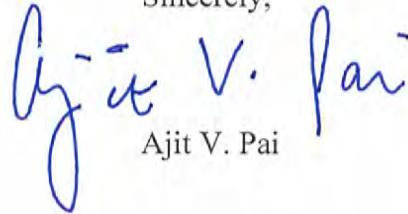
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Ajit V. Pai



OFFICE OF
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

April 28, 2017

The Honorable Anna G. Eshoo
U.S. House of Representatives
241 Cannon House Office Building
Washington, D.C. 20515

Dear Congresswoman Eshoo:

Thank you for your letter regarding the Wireline Competition Bureau's *Order on Reconsideration*, which affected nine companies' participation in the Lifeline program. I appreciate your views, which will be entered into the record of the proceeding.

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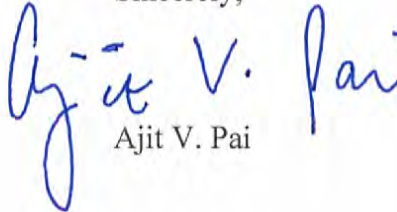
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OFFICE OF
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

April 28, 2017

The Honorable Gene Green
U.S. House of Representatives
2470 Rayburn House Office Building
Washington, D.C. 20515

Dear Congressman Green:

Thank you for your letter regarding the Wireline Competition Bureau's *Order on Reconsideration*, which affected nine companies' participation in the Lifeline program. I appreciate your views, which will be entered into the record of the proceeding.

One of my main goals as FCC Chairman is closing the digital divide. And I recognize unaffordability as a key barrier to digital opportunity. Last September, I explained when announcing my Digital Empowerment Agenda that "[a]lthough gigabit services and mobile broadband are becoming common features of wealthier, metropolitan areas, they aren't universal." There is a real digital divide in our country, and as we seek to address this problem, going forward, I want to make it clear that broadband will remain in the Lifeline program so long as I have the privilege of serving as Chairman. And we will continue to look for ways to make the program work even better.

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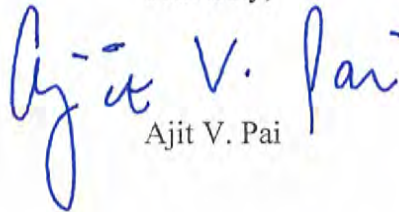
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OFFICE OF
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

April 28, 2017

The Honorable Ben Ray Luján
U.S. House of Representatives
2231 Rayburn House Office Building
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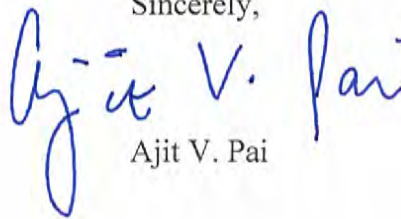
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Ajit V. Pai



OFFICE OF
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

April 28, 2017

The Honorable Doris Matsui
U.S. House of Representatives
2311 Rayburn House Office Building
Washington, D.C. 20515

Dear Congresswoman Matsui:

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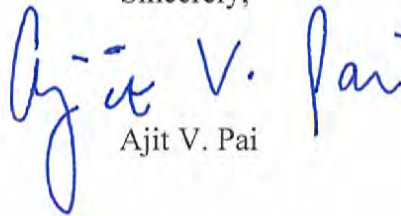
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OFFICE OF
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

April 28, 2017

The Honorable Jerry McNerney
U.S. House of Representatives
2265 Rayburn House Office Building
Washington, D.C. 20515

Dear Congressman McNerney:

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One of my main goals as FCC Chairman is closing the digital divide. And I recognize unaffordability as a key barrier to digital opportunity. Last September, I explained when announcing my Digital Empowerment Agenda that "[a]lthough gigabit services and mobile broadband are becoming common features of wealthier, metropolitan areas, they aren't universal." There is a real digital divide in our country, and as we seek to address this problem, going forward, I want to make it clear that broadband will remain in the Lifeline program so long as I have the privilege of serving as Chairman. And we will continue to look for ways to make the program work even better.

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Fourth, the prior Commission disregarded the well-established process for approving applications like these. The National Tribal Telecommunications Association filed a petition for reconsideration pointing out that several of the providers never complied with their obligation under our rules to coordinate their applications with Tribes. These Tribal representatives thus requested that the designations be reversed. Moreover, two providers' designations were improperly granted prior to the public comment deadline for filing comments—that is, before the public even had a full and fair chance to weigh in on the designation. This curtailed the public's ability to participate in these proceedings and limited the Commission's ability to

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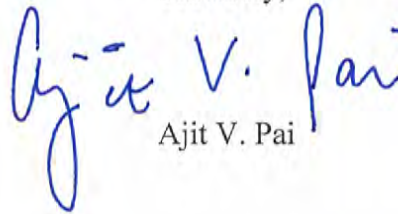
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Ajit V. Pai



OFFICE OF
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

April 28, 2017

The Honorable Frank Pallone
U.S. House of Representatives
237 Cannon House Office Building
Washington, D.C. 20515

Dear Congressman Pallone:

Thank you for your letter regarding the Wireline Competition Bureau's *Order on Reconsideration*, which affected nine companies' participation in the Lifeline program. I appreciate your views, which will be entered into the record of the proceeding.

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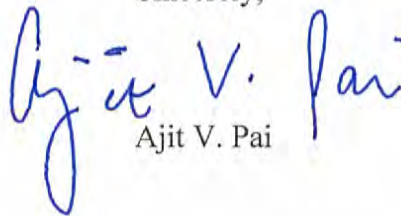
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Ajit V. Pai



OFFICE OF
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

April 28, 2017

The Honorable John Sarbanes
U.S. House of Representatives
2444 Rayburn House Office Building
Washington, D.C. 20515

Dear Congressman Sarbanes:

Thank you for your letter regarding the Wireline Competition Bureau's *Order on Reconsideration*, which affected nine companies' participation in the Lifeline program. I appreciate your views, which will be entered into the record of the proceeding.

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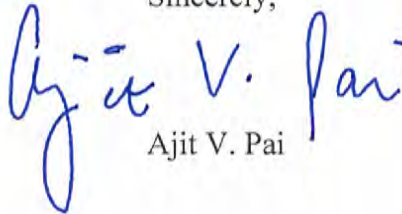
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OFFICE OF
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

April 28, 2017

The Honorable Jan Schakowsky
U.S. House of Representatives
2367 Rayburn House Office Building
Washington, D.C. 20515

Dear Congresswoman Schakowsky:

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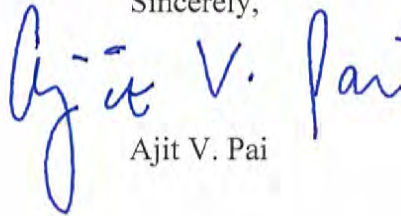
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OFFICE OF
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

April 28, 2017

The Honorable Paul Tonko
U.S. House of Representatives
2463 Rayburn House Office Building
Washington, D.C. 20515

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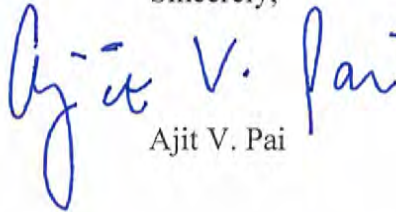
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April 28, 2017

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Dear Congressman Welch:

Thank you for your letter regarding the Wireline Competition Bureau's *Order on Reconsideration*, which affected nine companies' participation in the Lifeline program. I appreciate your views, which will be entered into the record of the proceeding.

One of my main goals as FCC Chairman is closing the digital divide. And I recognize unaffordability as a key barrier to digital opportunity. Last September, I explained when announcing my Digital Empowerment Agenda that "[a]lthough gigabit services and mobile broadband are becoming common features of wealthier, metropolitan areas, they aren't universal." There is a real digital divide in our country, and as we seek to address this problem, going forward, I want to make it clear that broadband will remain in the Lifeline program so long as I have the privilege of serving as Chairman. And we will continue to look for ways to make the program work even better.

Regarding the *Order*, I would make several important points.

First, the *Order* affected only nine of the more than 900 carriers participating in the Lifeline program—that's less than 1%. Nor did the *Order* affect the designation of Lifeline broadband carriers by state commissions; that process proceeds apace.

Second, eight of the nine affected carriers had no Lifeline customers.

Third, with respect to your concerns that this action was taken at the bureau-level, the full Commission delegated authority to the Wireline Competition Bureau to act on LBP designations in the *Lifeline Modernization Order*. Just as the prior Administration used this delegated authority to direct the Bureau to designate these providers, the current Bureau relied upon that authority in returning these LBP applications to the queue.

Fourth, the prior Commission disregarded the well-established process for approving applications like these. The National Tribal Telecommunications Association filed a petition for reconsideration pointing out that several of the providers never complied with their obligation under our rules to coordinate their applications with Tribes. These Tribal representatives thus requested that the designations be reversed. Moreover, two providers' designations were improperly granted prior to the public comment deadline for filing comments—that is, before the public even had a full and fair chance to weigh in on the designation. This curtailed the public's ability to participate in these proceedings and limited the Commission's ability to

consider all designation criteria with a fulsome record. Whatever one thinks of the merits of these applications, that action was plainly improper.

Fifth, as we implement the Lifeline program—as with any program we administer—we must follow the law. And the law here is clear: Congress gave state governments, not the FCC, the primary responsibility for approving which companies can participate in the Lifeline program under Section 214 of the Communications Act. This is how the program worked over two decades, over three Administrations, and over eight Chairmanships.

Twelve states, from Vermont to Wisconsin, challenged the legality of the FCC's order in the U.S. Court of Appeals for the District of Columbia Circuit. Because it would have been a waste of judicial and administrative resources to defend the FCC's unlawful action in court, the Office of General Counsel asked the D.C. Circuit to send this case back to the Commission for further consideration. The court did so this past week.

In the meantime, we must consider the Lifeline Broadband Provider applications that are pending at the FCC. In last year's order, the Commission delegated to the Wireline Competition Bureau the authority to address such applications. I do not believe that the Bureau should approve these applications. Here's why:

Right now, over 3.5 million Americans are receiving subsidized broadband service through the Lifeline program from one of 259 different Eligible Telecommunications Carriers (ETCs). And according to the latest available figures, the number of customers receiving subsidized broadband service has increased by over 16 percent during my Chairmanship. Hundreds of companies have been approved to participate in the Lifeline program through a lawful process. Indeed, over 99.6 percent of Americans currently participating in the broadband portion of the program receive service from one of those companies. New companies can enter the program using this process, and I encourage them to continue to do so. Given this context, it would be irresponsible for the Bureau to allow companies to sign up customers for subsidized broadband service through an unlawful federal authorization process that will soon be withdrawn. This would force many consumers to switch broadband providers in a relatively short period of time, which wouldn't be fair to them.

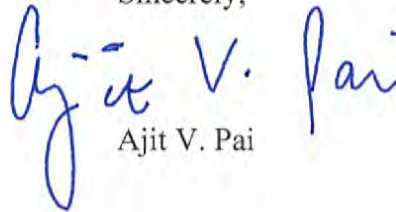
Congress established our universal service programs as a joint federal-state partnership. And through the years, many states have helped consumers and protected taxpayers by enforcing the rules of the road. As Senator Tom Udall (D-N.M.) recently observed in introducing bipartisan Lifeline legislation with Senator Deb Fischer (R-Neb.), we need to “return the role of state utility commissions in determining Lifeline eligibility. State utility commissions are key to policing against fraud and harmonizing federal and state initiatives that will help us close the digital divide.” By letting states take the lead on certification as envisioned by Congress, we will strengthen the Lifeline program and put the implementation of last year's order on a solid legal footing. This will benefit all Americans, including those participating in the program.

Finally, every dollar that is spent on subsidizing somebody who doesn't need the help by definition does not go to someone who does. That means that the Commission needs to make sure that there are strong safeguards against waste, fraud, and abuse before expanding the program to new providers. But our federal safeguards are insufficient: My investigation last year into these matters revealed that providers could indiscriminately override checks that are

supposed to prevent wasteful and fraudulent activities. (These checks include common-sense steps like verifying the identity of would-be Lifeline recipients.) From October 2014 until June 2016, wireless resellers had overridden such safeguards 4,291,647 times in total. The investigation also uncovered other loopholes, including one that let a company claim subsidies for approximately 22,000 phantom subscribers each month in the state of Michigan. And the National Verifier—a new database intended to verify eligibility to participate in the Lifeline program—does not currently exist and will not start operating until the end of 2017. Further, it is not scheduled to cover all states until 2019. We need to make sure that safeguards are strong and effective in order to direct subsidies to American consumers who most need the help.

I appreciate your interest in this matter. Please let me know if I can be of any further assistance.

Sincerely,

A handwritten signature in blue ink that reads "Ajit V. Pai". The signature is stylized, with the first name "Ajit" written in a cursive-like script and the last name "Pai" also in a cursive-like script, with "V." in the middle.

Ajit V. Pai